DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY A J Smith DATE 9/19/83
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OCT 11 1947

LIT 42

(R)

UNCLASSIFIED

No. 240

To the

Officer in Charge of the American Mission,

Rome.

The Acting Secretary of State encloses the Full Power signed by the President on October 10, 1947 authorizing the Honorable James Clement Dunn to sign a treaty of friendship, commerce and navigation between the Government of the United States of America and the Government of Italy. The Full Power is to be presented to the Foreign Office in the event that such a treaty is concluded and signed by Mr. Dunn.

RETURN TO LE/L

Enclosure:

Full Power.

A true copy of the original

Le/T:CHSullivan:rmb 10/10/47

Cleared by phone with:
Le/E - Mr. Hollis
CE - Mr. Walker
SE - Mr. Dowling

INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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DEPARTMENT OF STATE L&T OCT 15 1947 TREATY BRANCH OFFICE OF THE LEGAL ADVISER

Control 3433

Recd October 11, 1947
3:53 p.m.

FROM: Rome

TO: Secretary of State

NO: 3142, October 9, 4 p.m.

Commercial treaty number 11. Article V, paragraph 2. At meeting October 6, Italians submitted counter proposal to provisions of this paragraph. In initial discussions on September 27 they took position that they could not agree to provision on ground that it is contrary to principles of their exchange control laws. They objected particularly to exchange guarantee principle contained in rule that terms of exchange should be those applicable at time of taking of property. We emphasized that major principle involved was not that of exchange control but principle of protection of property and payment of effective compensation therefore. After lengthy discussion Italians said they would explore possibility of proposal for transfer of proceeds on basis of distinction between dollar investments and lire investments.

In making new proposals on Article VI Italians emphesized that delegation was assuming great [illegible] and Lombardo added personal) responsibility in maki[illegible] proposal at variance with exchange control laws and s[illegible]l that it would expect in return an important conc[illegible]sion by US. They suggested that such a concession would be abandonment of provision in article XXIV for MFN treatment as to coasting trade. Motive for bargaining may be idea of facilitating defense of capital transfer proposals either within government or before public. Inasmuch as our shipping companies have no real interest in Italian coastwise traffic we see no reason why MFN coastwise shipping provisions should be retained.

New proposals incorporate principle of authorizing transfer of

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transfer of proceeds when expropriated property represents investment in dollars or funds from "transferable" lire accounts. Proof that proceeds are transferable would be accepted in any case. In absence of proof transferability to be determined by following criteria: all transactions by American nationals prior to December 8, 1934 (date of imposition of exchange controls) presumed to have been dollar transactions; requisition of immovables after 1934 presumed to have been dollar transactions only when made by Americans not permanently residing in Italy; shares of stocks to be reimbursable in dollars only if they were legally removed abroad or were placed on deposit in Italian banks under certain exchange control regulations.

Italians stated that investments made from lire accounts deriving from current transactions as defined in IMF articles would be transferable. They are willing to make commitment to cooperate in making available any evidence in hands of government as transferability. They propose that date for determination of rate of exchange be that of application for transfer but agree that application may be made at time of taking of property and need not specify amount of compensation if that information not available. They contend that since Italy has multiple exchange rates treaty must specify most favorable terms applicable to capital transfers at time of application for transfer. When Embassy representative suggested that this last condition could be used to defeat purpose of provisions for transfer reply was that existing regulations permit a fair rate. Italian proposals not in form for incorporation in treaty. If Department finds them acceptable in principle details as to form and content would have to be worked out after further study.

Article VII paragraph 2. Italian delegation contends that concluding sentence in this paragraph is entirely superfluous in treaty between Italy and United States since Italian law imposes no bar to an alien succeeding as heir or devisee to immovable property. They state also that they do not value provision as protection of

Italian nationals

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Italian nationals against possible future imposition of exchange controls in US. Embassy knows of no reason for anticipating imposition of any legal obstacles to inheritance by Americans of property in Italy in future. It therefore recommends that sentence be dropped from treaty in order to avoid adding unnecessarily to difficulty of solving numerous problems related to exchange control.

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INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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Control 3582

Rec'd October 12, 1947
4:25 p.m.

Action: ITP
Info :
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FROM: Rome

TO : Secretary of State

NO : 3158, October 9, noon.

DEPARTMENT OF STATE
Le/T
OCT 13 1947
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER

Commercial treaty No. 12.

In meeting on September 18 Italian Delegation had proposed an amendment to article XXIV which would except from rule of most favored nation treatment advantages that Italy might grant to colonies or territories placed under Italian administration by international agreement. Specific proposal was to add following as a new subparagraph (E) in paragraph three Article XXIV as follows, "Advantages which may be granted by either high contracting party to territories in which an international agreement may recognize that it has a particular interest". At that time Embassy representatives referred to fact that in establishing trust territories other than stategic the United Nations would probably rule out arrangements for placing ~~usufructuary~~ state in a preferential position. Italians replied that there was no question of Italy's seeking preferential position in former colonies but that they wished to reserve right to grant favors in Italy to citizens and commerce of those territories.

At meeting on October 2 Embassy representatives strongly urged Italian delegation to consider this proposal with view to determining whether any good purpose would be served by their pressing for its inclusion in commercial treaty. We pointed out that its inclusion or omission would in no way aid or injure Italy's position as to return of colonies and that for us there are so many issued related to problem that necessary consideration would probably result in very great delay in conclusion of this negotiation. We stated that there would be a number of other occasions for considering problem of Italy's relations with colonies. We referred to CFM deputies meeting on colonies the fact that conditions governing administration of trust territories

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were determined by UN that rules and procedures on trade preferences were to be included in ITO charter and that Italy's position could be considered in connection with trade agreement negotiations.

Simonis argued that their proposal would make any rights accorded to Italy completely subject to international action. If UN or ITO should refuse to allow preferences then Italy could grant one. He said Italy would be willing to accept a provision emphasizing even further international control aspects. He added that unless an exception were included in this treaty Italy could not grant preferences even if approved by UN or ITO without other nations claiming same treatment. Embassy representives expressed view that US would be bound by UN or ITO action in matter. He then said that in restoring colonies four powers or UN might not deal with preference problem and then treaty rule of most favored nation would govern.

Lombardo finally stated that he would give further consideration to this question particularly with respect to its possible good or ill effect politically on colonial discussions now starting.

Dept is respectfully requested to instruct Embassy fully upon this coordinate position here with that which may be taken by CFM deputies at London.

Sent Dept as 3158. Repeated London as 229.

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